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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CARTER PAGE,

Plaintiff,

v.

17 CV 6990 (LGS)

OATH, INC., et al.,

Defendants.

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New York, N.Y.  
January 9, 2018  
6:00 p.m.

Before:

HON. LORNA G. SCHOFIELD,

District Judge

APPEARANCES

CARTER PAGE, Pro Se Plaintiff

DAVIS WRIGHT TREMAINE LLP

Attorneys for Defendant Oath, Inc.

BY: JAMES E. ROSENFELD

GEOFFREY S. BERMAN,

Interim United States Attorney for the  
Southern District of New York

STEPHEN S. CHA-KIM

Assistant United States Attorney

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(Case called)

MR. PAGE: Carter Page, pro se.

THE DEPUTY CLERK: Thank you.

Counsel?

MR. ROSENFELD: James Rosenfeld, Davis Wright  
Tremaine, for Oath.

MR. CHA-KIM: Stephen Cha-Kim, for the United States.

THE COURT: You may be seated.

First of all, apologies for the matters that came  
before you. I'm trying to get through them as quickly as I  
can.

We are here for an initial conference.

Mr. Page, I know you don't have the help of a lawyer,  
so welcome. I've read the joint letter and your proposed case  
management plan, but it would be helpful to me if you just tell  
me what the case is about.

So if you're comfortable doing that, Mr. Page, if you  
would stand when you speak, and speak into the mic, and just  
tell me briefly what the case is about.

MR. PAGE: Yes, your Honor.

There were multiple false defamatory articles written  
against me by subsidiaries of Oath, Inc., and they were  
retransmitted by Broadcasting Board of Governors RFE, which is  
the Radio Free Europe/Radio Liberty. There was a major change  
in the law in 2013, which allowed broadcasts in the United

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1 States. And this was the first presidential election where  
2 that happened, and so these completely false allegations --  
3 totally misrepresenting who I am, what I am -- were on the  
4 broadcast all around the world, and became one of the largest  
5 stories over the last 14 months.

6 THE COURT: I don't want to dwell on it, but would you  
7 mind just giving me an idea of who you are, what your  
8 background is, and what the stories were about, so I have some  
9 flavor of what's going on?

10 MR. PAGE: Yes, your Honor.

11 I am a -- I've been a professor, scholar for many  
12 years. I did my Ph.D. in the University of London. I'm a  
13 military veteran. I worked in the Pentagon doing U.S.-Russia  
14 arms control negotiations. I've done a lot of different  
15 things, both in the scholarly arena -- I was a professor at NYU  
16 for over six years --

17 THE COURT: In what field?

18 MR. PAGE: In the Center for Global Affairs, so I've  
19 taught about --

20 THE COURT: International relations?

21 MR. PAGE: Yes, yes.

22 THE COURT: Okay. Go ahead.

23 MR. PAGE: But I also have run a small boutique energy  
24 investment firm, and I've been working on that in parallel.

25 THE COURT: Okay.

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1 And so these publications concern what subject?

2 MR. PAGE: Well, there were false allegations -- I  
3 gave a speech in Moscow in July 2016, and I was invited by a  
4 university and gave a speech there. And it was totally  
5 misrepresented, and there was some opposition political  
6 research individuals. It's the cover story of the New York  
7 Times today, the Fusion GPS, which was hired by the Democratic  
8 National Committee and some individuals, and they hired an  
9 opposition political research person to dig up some dirt, if  
10 you will, on individuals. And they got some false information  
11 on me, which has been totally debunked over the last year and a  
12 half.

13 And, very similar to U.S. versus Mulligan, I've been  
14 dealing with a lot of the same things, where there was a real  
15 flagrancy of conduct in terms of some of the -- that article  
16 was pitched by Fusion GPS, which is the firm in today's  
17 headlines in the New York Times, and they tried, similar to --  
18 multiple fraudulent attempts, to give this information to the  
19 same paper, New York Times, Washington Post, CNN, other  
20 organizations. And they ended up finding one group, which is  
21 Yahoo News.

22 THE COURT: What about Oath, the defendant,  
23 Oath, Inc., what was their role in all of this?

24 MR. PAGE: So, Oath was in the process of acquiring  
25 Yahoo. They announced the acquisition in the summer of 2016,

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1 and they closed the acquisition last year. They also own a --  
2 through their AOL subsidiary, they own -- they've owned for  
3 many years Huffington Post, and they put together a long list  
4 of also defamatory articles about me as well.

5 THE COURT: So what relief are you seeking?

6 MR. PAGE: In my opinion, this may be the most  
7 egregious defamation case ever, both in terms of falsity but  
8 also impact. Like for Mr. Mulligan, a moment ago -- you talked  
9 about stresses on family -- this was a very stress, and my  
10 family has been going through a tremendous amount of challenges  
11 and hardship. Especially given it's such a political issue,  
12 this is not something that is just mentioned in your community  
13 or you have a bad reputation; this is -- I'm sure tonight it  
14 will be on all of the major news broadcasts.

15 THE COURT: You think the story about you will be on  
16 all the major news broadcasts?

17 MR. PAGE: Not about me, but it all began with me. So  
18 this dossier -- tomorrow is the one-year anniversary of when  
19 this document was put out to the world. And the only person --  
20 and about a dozen people, give or take, had allegations put  
21 against them, including President Trump. I was the only one  
22 who was pinpointed and targeted before the election. This was  
23 in September of 2016, 45 days before the election. So I really  
24 became, if you will, de facto public enemy number one, based on  
25 these completely false allegations.

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1 THE COURT: Okay. That's very helpful. Thank you.

2 MR. PAGE: Thank you.

3 THE COURT: So let me hear first from Mr. Rosenfeld  
4 about your client's position in all of this.

5 MR. ROSENFELD: Thank you, your Honor. I know it's  
6 late, so I'll be brief.

7 So, yes, Oath is the product of Yahoo merging with  
8 AOL. AOL owns Huffington Post. The first article we're  
9 talking about, and the main one that's the subject of this  
10 case, was a September 23, 2016, article in Yahoo News, and then  
11 there was some follow-up, various other reports down the line  
12 in the Huffington Post. They all had to do, in one facet or  
13 another, with Mr. Page's role in the story about connections  
14 between the Trump Campaign and Russian officials, Russian  
15 influence.

16 He and, I am sure, would tell you very different  
17 accounts of that story; you hear very different accounts every  
18 day from different news sources. Our position is that all of  
19 the reporting we did on his role was a hundred percent true, it  
20 was substantially true. Many of the statements that he focuses  
21 on are not defamatory to begin with because there are other  
22 legal defenses that apply, Section 230 of the Communications  
23 Decency Act, the statute of limitations, which he admits bar  
24 some of the claims, but --

25 THE COURT: I know you have a fully briefed motion to

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1 dismiss -- I have not looked at it yet -- but if truth is a big  
2 defense, that doesn't sound like something that can be dealt  
3 with on a motion to dismiss.

4 Is your motion a partial motion or are you trying to  
5 dismiss the entire complete?

6 MR. ROSENFELD: It's a complete motion to dismiss, and  
7 I can explain why.

8 THE COURT: Okay.

9 MR. ROSENFELD: Some of the defenses are purely legal  
10 arguments, like Section 230, statute of limitations, the issue  
11 of whether certain statements do or don't have defamatory  
12 meaning, whether some of them are opinion. Those are all  
13 things that can be cited as a matter of law.

14 Mr. Page filed an enormous complaint, about 200 pages  
15 of exhibits. All of the things that we are saying are  
16 substantially true, can be held substantially true, as a matter  
17 of law, based on the pleadings, which incorporate those  
18 exhibits.

19 So, for instance, just to give one example, one of the  
20 statements that he objects to, and claims is defamatory, is  
21 that an article he wrote compares U.S. sanctions against Russia  
22 to the killing of a -- police brutality against Michael Brown  
23 and Eric Garner in the United States. He says the article  
24 didn't say that. He attaches the article. It's an exhibit to  
25 the complaint. And your Honor can read the article and make

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1 that decision, based on the complaint and the documents  
2 incorporated thereto.

3 THE COURT: Okay.

4 Let me hear from the other defendant.

5 MR. CHA-KIM: Good evening, your Honor.

6 So, from the government's perspective, as much  
7 notoriety as there is about the dossier and Mr. Page's alleged  
8 connections to Russia, it's really a simple matter of a  
9 deficient complaint on a number of bases.

10 First, the defamation claims: Mr. Page has sued the  
11 wrong entity. According to the terms of the complaint, the  
12 company or entity that republished this HuffPost article, Radio  
13 Free Europe, while a federal grantee -- it's an independent  
14 corporation, so under Second Circuit precedent, it needs to be  
15 sued in its own right. The Broadcasting Board of Governors,  
16 even though it funds it, can't be held responsible for RFE's  
17 actions. Even if it could be, defamation is a tort that is  
18 specifically not included in the types of actions for which  
19 there is a waiver of sovereign immunity. The government can't  
20 be sued for that type of tort.

21 Even if it could pass those two problems, Mr. Page has  
22 not exhausted his administrative remedies as well, if your  
23 Honor needed another reason to dismiss that claim.

24 As for the remaining claims, they're fairly  
25 outlandish, and self-evidently so. He alleges that the



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1 government committed acts of terrorism against him and funded  
2 acts of terrorism against him.

3           Aside from there being no plausible basis to assert  
4 such a thing, terrorism and funding of terrorism is also not in  
5 the list of torts for which there is a waiver of sovereign  
6 immunity for which you can sue the government.

7           THE COURT: Okay. I know that that will be fully  
8 briefed at the end of this month, so it sounds like there is a  
9 schedule in place.

10           So, first, let me ask: Has there been any  
11 consideration of trying to resolve this outside of litigation  
12 and trying to settle the matter? Let me ask Mr. Page first.

13           MR. PAGE: Your Honor, according to your rulings, we  
14 had an exchange of three-page letters and initial thoughts --

15           THE COURT: Yes.

16           MR. PAGE: -- many months ago. And, frankly speaking,  
17 each of those points that Mr. Cha-Kim just alluded to I  
18 addressed in my letter. And, unfortunately, those open issues  
19 were not integrated into his motion or the government's  
20 motion --

21           THE COURT: Just time out. I will need to read your  
22 papers, both papers, and I'm not prejudging anything right now.

23           MR. PAGE: Yes.

24           THE COURT: My only question is: Have you and the  
25 defendants made any efforts to settle the case, in other words,

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1 just resolve it without furthering the litigation?

2 MR. PAGE: Your Honor, there is, in both of the  
3 motions to dismiss, from each of the defendants, there was a  
4 lack of recognition of the main elements that I was alleging  
5 and which increasingly -- over the course, since I filed my,  
6 case, four months ago almost, a steady stream of information  
7 has come out, which have only further strengthened my argument.  
8 And there are also a number of --

9 THE COURT: So does that mean you're not interested in  
10 settlement discussions?

11 MR. PAGE: I am interested, but I think, based on the  
12 information that I've received thus far and the response and  
13 the fact that I wrote a pretty extensive, well thought out,  
14 both from a factual standpoint but also from a legal  
15 standpoint, initial three-page letter many months ago, the fact  
16 that they're not considered --

17 THE COURT: Well, just so you understand, the point of  
18 the letters, the exchange of letters, is that if there is some  
19 deficiency that they identify, that you acknowledge and can  
20 correct, it gives you an opportunity to do that without filing  
21 motions.

22 MR. PAGE: Yes.

23 THE COURT: But, frankly, that is fairly rare, as you  
24 might imagine, and so the parties continue to have their  
25 differences. And so they essentially just bring them to the

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1 Court; they don't acknowledge the arguments that were in the  
2 letters. They sometimes preview them, but I wouldn't take  
3 offense that they didn't do anything with your arguments,  
4 because what they've simply done is brought them in front of  
5 me.

6 MR. PAGE: Yes, yes, your Honor.

7 Well, I think, in parallel, there are a number of  
8 other cases ongoing in other U.S. district courts, both in the  
9 District of Columbia as well as the Southern District of  
10 Florida, which are related to that, what I call the dodgy  
11 dossier, which was premiered on January 10th, which attacked --  
12 there were many allegations against many individuals. I was  
13 the only one pinpointed, and the level of falsity and the  
14 egregiousness of the offenses were much more definitive then.  
15 And, again, there has been -- in terms of discovery and  
16 evidence, I'm not a legal expert by any stretch of the  
17 imagination, but there has been a tremendous amount of -- I  
18 would find it hard to think of another case where there has  
19 been such a level of discovery --

20 THE COURT: So where do you stand on settlement  
21 discussions? Is it worth my referring to this to Judge Moses  
22 to see if she can help you and the defendants try to resolve  
23 this, or would that be a waste of time, in which case I won't  
24 waste your time or anybody else's?

25 MR. PAGE: Again, I'm new to this. Listening to U.S.

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1 versus Mulligan, that was the longest I've ever sat in a  
2 courtroom, so I would defer to your judgment, your Honor.

3 THE COURT: Okay. Let me hear from the defendants on  
4 that question.

5 MR. ROSENFELD: I don't think that mediation of this  
6 case is going to be productive. We have fundamental  
7 disagreements about the facts and fundamental disagreements  
8 about the law, and I really don't see a middle ground.

9 THE COURT: Okay.

10 Tell me what the discovery looks like in this case,  
11 from your client.

12 MR. ROSENFELD: We would want to take a written  
13 discovery and deposition of Mr. Page certainly.

14 THE COURT: Exploring what kinds of issues?

15 MR. ROSENFELD: There are a lot of factual issues --  
16 there are many statements that he's alleged are defamatory and  
17 raises a host of factual issues. They have to do --

18 THE COURT: So getting at the factual issues that are  
19 allegedly defamatory?

20 MR. ROSENFELD: Sure. His role, who he met with in  
21 Russia. The main thrust of the first article has to do with  
22 his meetings with two Russian officials. He's taken issue with  
23 a number of things about that story. We have to ask a lot  
24 about the meetings in Russia, his other dealings in Russia, his  
25 ownership of shares of the largest oil company, the former

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1 ownership of shares in the largest oil company --

2 THE COURT: I'm going to interrupt for a second. What  
3 kind of discovery do you have to provide to Mr. Page? I  
4 understand you don't have a discovery request yet, but there  
5 are always obvious documents that one expects to provide and  
6 that you have told your clients to preserve and that you  
7 perhaps have already reviewed. What's the nature of that?

8 MR. ROSENFELD: Well, we told our clients to  
9 preserve -- we've done a full litigation hold on everything  
10 having to do with -- there's a lot of articles here. They're  
11 preserving notes, interviews, drafts, we will almost  
12 certainly -- I think there's a good chance we will have orders  
13 of privilege issues about what is discoverable and what's not,  
14 but all of that's been saved. I have no doubt we'll want to  
15 talk to folks that wrote the articles and ask them about their  
16 reporting and the basis for their stories.

17 THE COURT: Okay. So here's what I'm going to do: I  
18 obviously will await the second motion. I will decide the  
19 motions.

20 I should just explain, especially explain to Mr. Page:  
21 I have over 200 cases. I have pending motions in many of them.  
22 I get to them as I get to them. So I can't promise you it will  
23 be tomorrow, because it won't, and so I'll try and get to it as  
24 quickly as I can.

25 In the meantime, I'm going to stay discovery

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1 concerning Broadcasting Board of Governors because it sounds to  
2 me that at least the sovereign immunity defenses may prevail.  
3 Maybe I'm wrong, but I'm going to stay just that discovery as  
4 to that defendant, so no discovery as to Broadcasting Board of  
5 Governors yet. If I deny the motion, there will be full  
6 discovery.

7 And then regarding Oath, Inc., I will allow document  
8 requests but no other type of discovery yet, so no  
9 interrogatories, no depositions yet. Let's wait until I decide  
10 the motions to dismiss, but you should go ahead with your  
11 exchange of document requests and begin the process of  
12 producing documents.

13 MR. ROSENFELD: Your Honor, may I speak to that for a  
14 moment?

15 THE COURT: Yes.

16 MR. ROSENFELD: Our position -- and we haven't had a  
17 chance to address this yet, we mentioned we were going to, to  
18 talk about it in our joint letter, the defendants' joint  
19 letter.

20 THE COURT: I know you want a stay of discovery, but  
21 it seems to me that, given that I can't get to your motion to  
22 dismiss immediately, and I virtually never allow stays of  
23 discovery while motions are pending except when I'm statutorily  
24 required to do that, and so I am going to allow some exchange  
25 of documents.

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1 MR. ROSENFELD: Okay. Thank you, your Honor.

2 THE COURT: Okay.

3 MR. PAGE: Your Honor, if I may just add one quick  
4 point with regards to --

5 THE COURT: Yes.

6 MR. PAGE: Because I just jumped over the  
7 U.S. Government element with the sovereign immunity issue.

8 There is an exception in the sovereign immunity  
9 statute, which gives an exception if there's an instance of  
10 abuse of process. A lot of this information which is  
11 another -- this is the latest big headline in the New York  
12 Times and on the major news stations right now, a lot of false  
13 evidence related to these same false allegations from  
14 Mr. Steele, who is the person who put together this dodgy  
15 dossier and that was used allegedly for getting a FISA warrant  
16 against me, which is a completely outrageous element, and there  
17 has been a tremendous amount of controversy, and there is a --  
18 just within the last few days -- it was alluded to in a quick  
19 footnote in the letter -- there was a the Chairman of the House  
20 Intelligence Committee has had an agreement with the deputy  
21 Attorney General -- the U.S. Department of Justice has been  
22 under a tremendous pressure to provide this information related  
23 to the alleged FISA warrant against me and the big questions  
24 that are outstanding, particularly as it relates to Mr. Steele.

25 And in parallel with that, a brief final point: The

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1 chairman of Senate Judiciary Committee sent a letter actually  
2 referring that individual, Mr. Steele, for consideration and  
3 investigation for potential violations of 18, U.S.C., 1001. So  
4 he is under various questions right now. And it was also  
5 cosigned by the chairman of the Senate Judiciary Subcommittee  
6 On Crime and Terrorism.

7 Final quick point: The terrorism element, the Senate  
8 Judiciary Committee, just in the last few hours, released a  
9 transcript. And one of the lawyers for Fusion GPS, which is  
10 involved in this, a quote from him says: "Somebody has already  
11 been killed as a result of the publication of this dossier."  
12 That was one of the main headlines today, and I'm sure it will  
13 be on the news tonight. So I had a number of death threats  
14 related to these false allegations, which were transmitted  
15 worldwide, and so I think it's far from frivolous.

16 Thank you.

17 THE COURT: Okay. Thank you. I look forward to  
18 looking at both sides' papers.

19 I'll enter an order. Please pay attention to the  
20 order.

21 I don't think there's anything else we need to address  
22 right now. So we're adjourned.

23 MR. CHA-KIM: Thank you, your Honor.

24 MR. ROSENFELD: Thank you, your Honor.

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